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C O N F I D E N T I A L SECTION 01 OF 04 MADRID 000432

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SUBJECT: SPAIN/ETA: RELEASE OF PRISONER TRIGGERS POLITICAL
BATTLE

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Classified By: DCM Hugo Llorens; reasons 1.4 (B) and (D)

11. (C) Summary. Just two months after ETA's December 30 bomb attack at Madrid's airport set off a bitter debate regarding the Zapatero Government's handling of the Basque issue, Zapatero has drawn fresh criticism for allowing a hunger striking ETA member to serve the remainder of his sentence in house arrest for "humanitarian" reasons. The prisoner, Jose Ignacio de Juana Chaos, had served 17 years of a 30-year sentence for his role in the deaths of 18 individuals in the 1980s, most of them members of the Spanish police and security forces. However, as he was about to be released in 2005, prosecutors charged him with continued ETA activities while in prison and eventually won an additional 3-year conviction against him. De Juana undertook two hunger strikes, igniting fervor among young Basque radicals and becoming a central element in the national political debate on how -- or even whether -- to maintain peace talks with ETA. Former Minister of Defense Jose Bono told the Ambassador that the Zapatero Government had determined that De Juana was truly near death and that his "martyrdom" would unleash a wave of ETA violence and definitively derail the Basque peace process. There are rumors that Socialist elder statesmen are privately critical of the De Juana decision, even as they voice public support for Zapatero. The opposition Popular Party (PP) and terrorist victims' groups reacted with indignation and mass rallies, charging that Zapatero has given in to ETA blackmail. The Socialist Party (PSOE) has responded vigorously, asserting that De Juana's treatment is no different than former President Aznar's relocation of ETA prisoners to the Basque Region during Aznar's own attempt to negotiate peace with ETA.

12. (C) The De Juana decision, along with the Government's low-key response to the December 30 Barajas airport attack and apparent willingness to consider allowing ETA's political front to participate in May municipal elections in the Basque Region, represent a huge gamble for the Zapatero Government. Zapatero is betting that the electorate will prefer continued talks with ETA, even under distasteful circumstances, to a tough Government reaction that results in renewed ETA violence. A key element of Zapatero's strategy is to equate his own overtures to ETA with those undertaken by the PP in the 1990s. Polls suggest widespread public disgust with De Juana's release, but this has not translated into greater political support for the PP. The inability thus far of the PP to gain traction on this issue may explain why Zapatero appears willing to place his Government's fortunes in the hands of ETA and its political allies. End Summary.

//A NOTORIOUS ETA TERRORIST//

13. (U) De Juana Chaos, a former member of the Basque Regional Police, became among the most vicious ETA terrorists and a leader of ETA's feared "Madrid Commando" during the 1980s. He was captured in January 1987 and was convicted of killing 12 Civil Guards and wounding 58 people in one attack, killing five Civil Guards in another attack, and killing a Navy Viceadmiral in a third attack. De Juana is accused of involvement in as many as seven more deaths as well. In 1989, he was convicted to a total of 2,655 years in prison, a symbolic punishment since he was convicted under the 1973 Penal Code which allowed for a maximum of 30 years imprisonment.

14. (U) De Juana became eligible for release in 2005 under normal penal guidelines allowing prisoners to reduce their prison terms through "good behavior" and similar benefits. However, a National Court magistrate blocked De Juana's release in 2005 by charging him with making "terrorist threats" in two articles he authored for the radical Basque daily "Gara" near the end of his prison term. Also, although many ETA terrorists had benefited from early release programs during the Gonzalez, Aznar and Zapatero administrations, Spanish public opinion was strongly against De Juana's release because of the number of his victims and because he had never expressed remorse.

15. (U) The new charges triggered a complex legal contest pitting prosecutors and police against De Juana and ETA support groups, at a time when the Zapatero Government was undertaking tenuous peace talks with ETA. In November 2006, the National Court agreed with the new charges against De Juana and sentenced him to 12 more years in prison. On appeal, the Supreme Court in February 2007 partially overturned his conviction and reduced his sentence to 3 years in prison for a single count of making terrorist threats.

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This three-year term would have made him eligible for release in 12 to 18 months (summer 2008), under normal prison guidelines.

//DE JUANA BECOMES AN ETA HERO//

16. (U) While the treatment of ETA prisoners, and particularly their dispersal throughout Spain, has long been a central issue for ETA negotiators, the De Juana case did not gain special status until De Juana announced a hunger strike on August 8 to protest his continued incarceration. Observers in the Basque Region reported rumors that ETA leaders had opposed De Juana's hunger strike out of concern that it would inflame ETA supporters and complicate peace talks with the Zapatero Government. De Juana abandoned his hunger strike in October, but initiated a second hunger strike on November 7, a day after the National Court sentenced him to a further 12 years in prison. His condition reportedly declined despite forced feeding by doctors, and in early February De Juana's attorneys released pictures of him appearing emaciated and attached to IV tubes to keep him hydrated. Between August and February, De Juana became the most important symbol of ETA resistance to Madrid, particularly among the young ETA hardliners who have reportedly taken over the organization and who were behind the December 30 attack at Barajas Airport that killed two people.

17. (U) The February 12 decision of the Spanish Supreme Court to reduce De Juana's sentence from 12 years to 3 years paved the way for the Zapatero Government to release him. The reduced final prison term made him eligible for release under special humanitarian guidelines for prisoners facing relatively short sentences. On February 28, Minister of Interior Alfredo Perez Rubalcaba approved the transfer of De Juana from a Madrid prison hospital to a hospital in San Sebastian, near De Juana's home, as well as authorizing De Juana to complete the remainder of his prison term in his

home under police and electronic surveillance once he has recovered enough to leave the hospital. In a press conference announcing the Government's decision to ease De Juana's conditions, Rubalcaba emphasized the Government's determination that De Juana was near death, or at least on the point of suffering irreparable physical damage, and that the Government's decision was made on humanitarian grounds. Other Government officials defended the decision as appropriate for an inmate with little more than a year left in his prison term, also noting that De Juana had expressed support for the Basque peace process. A judge officially approved Rubalcaba's decision on March 1 and De Juana arrived at a San Sebastian hospital the same day to a hero's welcome.

//BASQUE EXTREMISTS CHEER VICTORY, PP CONDEMNS RELEASE//

¶18. (U) An ETA prisoner support group quickly claimed a political victory for radical Basque nationalists and urged the release of seven more ETA prisoners who are in poor health. A representative of ETA political front group "Batasuna" demanded the immediate release of sick ETA prisoners and the relocation to the Basque Region of all other ETA prisoners (a long-standing Batasuna demand). While some in Batasuna and ETA seem willing to downplay De Juana's release to avoid embarrassing Zapatero, most ETA supporters clearly view the hunger strike as an effective weapon in negotiations with the Government. Several prisoners (including several common criminals) have announced their own plans for hunger strikes.

¶19. (U) The PP and groups representing victims of terrorism were quick to respond to news of De Juana's release, denouncing the decision as tantamount to succumbing to ETA blackmail. A PP youth group staged an unauthorized demonstration in front of the Ministry of Interior the day De Juana's release was announced and several "semi-spontaneous" demonstrations called by victims rights groups have taken place throughout the country, attracting several thousand people each. Several demonstrations have been marred by the participation of far-right Francoist and fascist groups. The PP is organizing a massive protest march for March 10 (by coincidence, the eve of third anniversary of the March 11, 2004 Madrid train attacks by Islamist extremists) under the motto "Spain for Liberty - No More Concessions to ETA."

//ZAPATERO WALKING A FINE LINE//

¶10. (C) The Zapatero Government understands that it has assumed a significant political risk, both in releasing De Juana and in continuing to seek peace with ETA. Former Minister of Defense Jose Bono told the Ambassador that the

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Zapatero Government had determined that De Juana was truly near death and that his "martyrdom" would unleash a wave of ETA violence and definitively derail the Basque peace process. While releasing De Juana under pressure was certain to cost Zapatero political support, Zapatero and the PSOE reportedly determined that ETA's resurgence would be far worse, both in terms of human lives and in political consequences. Though all senior PSOE leaders, past and present, have expressed public support for Zapatero's decision on De Juana, Bono and former President Gonzalez were rumored to be adamantly opposed in private. During his tenure as MOD, Bono was outspoken in his opposition to Basque nationalists.

¶11. (C) The Government will soon face yet another political challenge: deciding whether to fight or support the participation of ETA political group Batasuna in Basque municipal elections in May. Although many observers discarded any possibility of Batasuna's participation in elections after the December 30 airport attack, it now seems that Zapatero and his advisers are inclined to support participation by Batasuna, or its candidates running under

another banner. A Batasuna role in Basque elections would be certain to draw relentless criticism by the PP, and likely grumbling from within the PSOE as well.

//POLITICAL KNIVES SHARPENED//

¶12. (C) While the De Chaos case will be the immediate cause, the PP hopes its March 10 demonstration will convey widespread dissatisfaction with Zapatero's ETA/Basque policy and prove a political liability for the Socialists in the May 27 regional/municipal elections. Various polls conducted following the announcement of De Juana's release indicate broad disgust with the decision. In a poll by Spain's second leading daily, "El Mundo," 63 percent of respondents called De Juana's release "Bad or Very Bad" and 63 percent (including 58 percent of self-identified PSOE voters) said they expected Zapatero's decision would negatively affect the PSOE in upcoming elections. A separate poll indicated strong public support (80 percent) for tougher sentencing guidelines, but tracked with other polls in indicating that the PSOE would still edge out the PP the general elections (scheduled to take place by March 2008, but there is speculation that Zapatero could call elections as early as November).

¶13. (C) Zapatero and the PSOE are countering PP criticism by equating the De Juana decision to former President Aznar's decision to move a number of ETA prisoners to the Basque Region as part of 1998 negotiations with ETA. The PSOE has produced two videos detailing Aznar administration overtures to ETA and calling the current PP attacks hypocritical. Zapatero has also threatened to divulge previously "secret" PP dealings with ETA during the Aznar Government, leading PP figures to threaten to resurface the so-called "GAL Case," the PSOE's dirty war against ETA during the Gonzalez Government. The political environment surrounding these various ETA issues is likely to become even more volatile through the May 27 municipal/regional elections, and through the runup to the national elections in late 2007 or early 2008.

//COMMENT//

¶14. (C) As the De Juana episode makes clear, Zapatero is willing to raise the ante in pursuit of avoiding violence and furthering the Basque peace process, which he views as the central legacy of his administration. To a significant extent, he has placed his political future in ETA's hands. In fact, many within Zapatero's PSOE ranks privately believe that these high stakes are unreasonable, particularly in the wake of the December 30 ETA bombing at Barajas airport. Nevertheless Zapatero is counting on the PP to fumble the opportunity and not be able to mount a successful challenge to the PSOE's leadership in the national elections - as long as ETA violence is held in check. ETA is doubtlessly aware that it holds the wildcard in those elections and will extract whatever concessions it can over the next several months. However, the Zapatero Government cannot concede on core ETA demands, such as Basque self determination, and the key question is whether the Government will be able to do enough to stave off another ETA blast, with its attendant political consequences. Thus far, the PP and its leader Mariano Rajoy have not been able to gain substantial political momentum beyond their own core base, despite all of the issues surrounding Zapatero's ETA policy - mainly because the Spanish public views the PP as too right wing and too associated with Aznar's perceived mistakes following the

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March 11, 2004 terrorist attacks in Madrid.
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